

## Chapter 9

### Taxation of Admitted Insurers

#### **59-9-101 Tax basis -- Rates -- Exemptions -- Rate reductions.**

- (1)
- (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total premiums received by it during the preceding calendar year from insurance covering property or risks located in this state.
  - (b) This Subsection (1) does not apply to:
    - (i) workers' compensation insurance, assessed under Subsection (2);
    - (ii) title insurance premiums taxed under Subsection (3);
    - (iii) annuity considerations;
    - (iv) insurance premiums paid by an institution within the state system of higher education as specified in Section 53B-1-102; and
    - (v) ocean marine insurance.
  - (c) The taxable premium under this Subsection (1) shall be reduced by:
    - (i) the premiums returned or credited to policyholders on direct business subject to tax in this state;
    - (ii) the premiums received for reinsurance of property or risks located in this state; and
    - (iii) the dividends, including premium reduction benefits maturing within the year:
      - (A) paid or credited to policyholders in this state; or
      - (B) applied in abatement or reduction of premiums due during the preceding calendar year.
  - (d)
    - (i) For purposes of this Subsection (1)(d):
      - (A) "Utah variable life insurance premium" means an insurance premium paid:
        - (I) by:
          - (Aa) a corporation; or
          - (Bb) a trust established or funded by a corporation; and
        - (II) for variable life insurance covering risks located within the state.
      - (B) "Variable life insurance" means an insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of one or more separate accounts that are established and maintained by the insurer pursuant to Title 31A, Insurance Code.
    - (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable life insurance premium shall be calculated as follows:
      - (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:
        - (I) paid for each variable life insurance policy; and
        - (II) received by the admitted insurer in the preceding calendar year; and
      - (B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:
        - (I) paid for the policy described in Subsection (1)(d)(ii)(A); and
        - (II) received by the admitted insurer in the preceding calendar year.
- (2)
- (a) An admitted insurer writing workers' compensation insurance in this state, including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers' Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a premium

assessment on the basis of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year as follows:

- (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but equal to or less than 5.75% of the total workers' compensation premium income described in this Subsection (2);
  - (ii) on and after January 1, 2011, but on or before December 31, 2017, an amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation premium income described in this Subsection (2); and
  - (iii) on and after January 1, 2018, an amount equal to 1.25% of the total workers' compensation premium income described in this Subsection (2).
- (b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to premiums as provided in Section 34A-2-202.
- (c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium assessment collected under this Subsection (2):
- (i) income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1) as follows:
    - (A) on or before December 31, 2009, an amount of up to 5% of the total workers' compensation premium income;
    - (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up to 4.5% of the total workers' compensation premium income;
    - (C) on and after January 1, 2011, but on or before December 31, 2017, an amount of up to 3% of the total workers' compensation premium income; and
    - (D) on and after January 1, 2018, 0% of the total workers' compensation premium income;
  - (ii) an amount equal to 0.25% of the total workers' compensation premium income to the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;
  - (iii) an amount of up to 0.5% and any remaining assessed percentage of the total workers' compensation premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704; and
  - (iv) beginning on January 1, 2010, 0.5% of the total workers' compensation premium income to the state treasurer for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.
- (d)
- (i) The Labor Commission shall determine the amount of the premium assessment for each year on or before each October 15 of the preceding year. The Labor Commission shall make this determination following a public hearing. The determination shall be based upon the recommendations of a qualified actuary.
  - (ii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Employers' Reinsurance Fund and to project a funded condition with assets greater than liabilities by no later than June 30, 2025.
  - (iii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a funded condition with assets equal to or greater than liabilities.

- (iv) At the end of each fiscal year the minimum approximate assets in the Employers' Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.
  - (v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements from the Employers' Reinsurance Fund are projected to be less than the calculations of the corresponding future minimum required assets. The Labor Commission shall, after a public hearing, determine if the future annual disbursements are less than the corresponding future minimum required assets from projections provided by the actuary.
  - (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.
  - (e) A premium assessment that is to be transferred into the General Fund may be collected on premiums received from Utah public agencies.
- (3) An admitted insurer writing title insurance in this state shall pay to the commission, on or before March 31 in each year, a tax of .45% of the total premium received by either the insurer or by its agents during the preceding calendar year from title insurance concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:
- (a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and
  - (b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance producer, or any of them.
- (4) Beginning July 1, 1986, a former county mutual and a former mutual benefit association shall pay the premium tax or assessment due under this chapter. Premiums received after July 1, 1986, shall be considered in determining the tax or assessment.
- (5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):
- (a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;
  - (b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;
  - (c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;
  - (d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;
  - (e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs;
  - (f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and Plans; and
  - (g) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.
- (6) An insurer issuing multiple policies to an insured may not artificially allocate the premiums among the policies for purposes of reducing the aggregate premium tax or assessment applicable to the policies.
- (7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes, apply to the tax or assessment imposed under this chapter.

Amended by Chapter 135, 2016 General Session

**59-9-102 Offsets.**

- (1) If any authorized insurer doing business in this state during the tax year pays a property tax in this state, the insurer may deduct from the tax provided under this chapter that portion of the property tax paid for general state purposes.
- (2) Any domestic insurance company paying a fee for examination under Section 31A-2-205 may deduct from the tax provided under this chapter the amount of the examination fee paid, subject to the limitations of Subsection 31A-2-203(2)(e).
- (3) There is offset against the taxes imposed under Section 59-9-101 the amount of any assessments paid by an insurance company under the guaranty associations established under Title 31A, Chapter 28, Guaranty Associations, in the manner provided by Sections 31A-28-113 and 31A-28-212.
- (4) There is an offset provided in Section 59-9-102.5 against the premium assessment imposed under Subsection 59-9-101(2) against an admitted insurer writing workers' compensation insurance in this state.
- (5) The state has no liability to insurers for any amount by which offsets allowed under this section exceed the insurer's premium tax liability.

Amended by Chapter 177, 2006 General Session

**59-9-102.5 Offset for occupational health and safety related donations.**

- (1) As used in this section:
  - (a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53B, Chapter 17, Part 8, Rocky Mountain Center for Occupational and Environmental Health.
  - (b) "Qualified donation" means a donation that is:
    - (i) cash;
    - (ii) given directly to an occupational health and safety center; and
    - (iii) given exclusively for the purpose of:
      - (A) supporting graduate level education and training in fields of:
        - (I) safety and ergonomics;
        - (II) industrial hygiene;
        - (III) occupational health nursing; and
        - (IV) occupational medicine;
      - (B) providing continuing education programs for employers designed to promote workplace safety; and
      - (C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.
  - (c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).
- (2)
  - (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:
    - (i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

- (ii) .10% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.
- (b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).
- (3) An occupational health and safety center shall:
  - (a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center;
  - (b) expend money received by a qualified donation:
    - (i) for the purposes described in Subsection (1)(b)(iii); and
    - (ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii); and
  - (c) in conjunction with the report required by Section 34A-2-202.5, report to the Legislature through the Office of the Legislative Fiscal Analyst by no later than July 1 of each year:
    - (i) the qualified donations received by the occupational health and safety center in the previous calendar year; and
    - (ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Amended by Chapter 342, 2011 General Session

**59-9-103 Taxation of insurers otherwise untaxed.**

- (1) As used in this section:
  - (a) "Administrative and claims expense" includes all claims paid, agency expenses, third party administrator expenses, taxes, licenses, fees, loss adjustment expenses, legal expenses, reinsurance premiums, and all other expenses incurred directly in connection with the insurance of Utah risks by the insurer, less any recoveries or reimbursements collected or collectible because of reinsurance or any other source, but only with respect to Utah risks. The administrative and claims expense also includes the pro rata portion attributable to Utah risks of the salaries and fringe benefits, including taxes on salaries, of all personnel responsible for the administration of the insurer, the printing and stationery, and all other expenses attributable to the administration of the insurer. When personnel are engaged in the administration of the insurer as only part of their employment, for purposes of this section their salaries and fringe benefits shall be prorated based on the portion of their time devoted to the administration of the insurer. Appropriate overhead charges shall be included with all the expenses listed in this subsection.
  - (b) "Utah risks" means insurance coverage on the lives, health, or against the liability of persons residing in Utah, or on property located in Utah, other than property temporarily in transit through Utah.
- (2) Except for workers' compensation coverage, which is provided in Subsection (3), and except as provided under Subsection (4), every insurer which provides insurance on Utah risks shall pay to the commission, on or before March 31 of each year, a tax of 2-1/4% of the total administrative and claims expense incurred during the prior calendar year by the insurer. This tax shall be deposited in the General Fund.
- (3) Except as provided under Subsection (4), every insurer which provides workers' compensation coverage on persons employed in Utah shall pay to the commission on or before March 31 of each year a tax of 3-1/4% of the total administrative and claims expense incurred during the

prior year by the insurer. This tax shall be distributed in the same manner as under Subsection 59-9-101(2).

- (4) The taxes imposed under Subsections (2) and (3) do not apply to:
- (a) admitted insurers;
  - (b) insurers taxed under Section 31A-3-301;
  - (c) self insurers;
  - (d) annuity considerations or ocean marine insurance; or
  - (e) a public agency insurance mutual as defined in Section 31A-1-103.

Amended by Chapter 71, 2002 General Session

**59-9-104 Installment payments -- Penalty.**

- (1) A person whose total tax obligation under this chapter for the preceding taxable year was \$10,000 or more shall pay the taxes levied under this chapter in quarterly installments. Each installment shall be based on the estimated insurance premiums received, or for the taxes imposed under Section 59-9-103, upon the estimated total administrative and claims expense incurred during the calendar quarter preceding the date on which that quarterly installment is due. The installments are due on or before April 30, July 31, October 31, and March 31. To the extent installment payments result in an overpayment of the tax obligation under this chapter, the overpayment shall be promptly refunded.
- (2) If an installment is not paid or is underpaid, except as provided in Subsection (3), there shall be added a penalty at the rate and in the manner prescribed in Section 59-1-401. The amount of the underpayment is the excess of 80% of the installment shown to be due by an audit of the taxpayer's records over the amount, if any, of the installment paid on or before the last date prescribed for the payment. The taxpayer shall pay the cost of the audit, if any.
- (3) No penalty, interest, or audit charge may be assessed under Subsection (2) if the taxpayer pays, for any installment required by this section, at least 27% of the annual tax reported on its annual statement for the preceding taxable year.
- (4) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

Amended by Chapter 205, 1995 General Session

**59-9-105 Tax on certain insurers to pay for relative value study and other publications or services.**

- (1) An insurer that provides coverage for motor vehicle liability, uninsured motorist, and personal injury protection shall pay to the State Tax Commission on or before March 31 of each year, a tax of .01% on the total premiums received for these coverages during the preceding calendar year from policies covering motor vehicle risks in this state.
- (2) The taxable premium under this section shall be reduced by the premiums returned or credited to policyholders on direct business subject to tax in this state.
- (3) Money received by the state under this section shall be deposited into the Relative Value Study Restricted Account created in Subsection (4).
- (4)
- (a) There is created in the General Fund a restricted account known as the "Relative Value Study Restricted Account."
  - (b) The Relative Value Study Restricted Account shall consist of the money received by the insurance commissioner under:

- (i) Section 31A-2-208; and
- (ii) this section.
- (c) The insurance commissioner shall administer the Relative Value Study Restricted Account. Subject to appropriations by the Legislature, the insurance commissioner shall use the money deposited into the Relative Value Study Restricted Account to pay for costs and expenses incurred by the insurance commissioner:
  - (i) in conducting, maintaining, and administering the relative value study referred to in Section 31A-22-307;
  - (ii) to prepare, publish, and distribute publications relating to insurance and consumers of insurance as provided in Section 31A-2-208; and
  - (iii) in providing the services of the insurance commissioner through the use of:
    - (A) electronic commerce; and
    - (B) other information technology.

Amended by Chapter 284, 2011 General Session

**59-9-107 Nonrefundable small business jobs credit.**

- (1) As used in this section:
  - (a) "Credit allowance date" means the same as that term is defined in Section 63N-2-602.
  - (b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.
  - (c) "Tax credit certificate" means the same as that term is defined in Section 63N-2-602.
- (2) An entity may claim a nonrefundable tax credit against a tax liability under this chapter in accordance with this section if the entity is issued a tax credit certificate by the office under Subsection 63N-2-603(11). The office shall issue a tax credit certificate to an entity that is allocated tax credits under Subsection 63N-2-603(11)(e).
- (3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate issued to the entity for the calendar year.
- (4) An entity may carry forward a tax credit under this section for seven years if:
  - (a) the entity is allowed to claim a tax credit under this section for a calendar year; and
  - (b) the amount of the tax credit exceeds the entity's tax liability under this chapter for that calendar year.
- (5) An entity required to pay a retaliatory tax levied under this chapter for a reason other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is calculated, and the tax credit may be used to offset retaliatory tax liability.
- (6) Notwithstanding the other provisions of this section, this section does not apply to an admitted insurer to the extent that the admitted insurer writes workers' compensation insurance in this state and has premiums taxed under Subsection 59-9-101(2).
- (7)
  - (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
  - (b) In conducting the review required by Subsection (7)(a), the Revenue and Taxation Interim Committee shall:
    - (i) schedule time on at least one committee agenda to conduct the review;
    - (ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

- (iii) ensure that the recommendations described in this section include an evaluation of:
  - (A) the cost of the tax credit to the state;
  - (B) the purpose and effectiveness of the tax credit; and
  - (C) the extent to which the state benefits from the tax credit; and
- (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Amended by Chapter 1, 2016 Special Session 3